DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H17-0795-26**	**Applicant:**	**Mr C Dobney**
Proposal:	Retention of dwelling without complying with agricultural habitation clause (Condition 2 of H17-0432-97)		
Location:	28 Woods Lane Surfleet Spalding		
Terminal Date:	15th October 2026		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management
03	Design of New Development
04	Approach to Flood Risk
10	Meeting Assessed Housing Requirements
11	Distribution of New Housing
17	Providing a Mix of Housing
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework August 2026

Section 4 Achieving Sustainable Development
Section 5 Meeting the challenge of climate change
Section 6 Delivering a sufficient supply of homes
Section 12 Making effective use of land
Section 14 Achieving well designed places
Section 18 Managing flood risk and coastal change
Section 19 Conserving and enhancing the natural environment

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	1	0	0
WARD MEMBER	0	0	0	0

CASE OFFICER ASSESSMENT

Proposal

The application seeks to remove Condition 2 of planning permission H17-0432-97, which restricted the occupancy of the dwelling to a person employed or last employed in agriculture.

The relevant condition read as follows:

"(2) The occupation of the dwelling shall be limited to a person solely or mainly employed, or last employed, locally in agriculture as defined in Section 336 of the Town and Country Planning Act 1990, or a dependent of such a person residing with him, or a widow or widower of such a person."

Site Description

The property is a detached bungalow located within the settlement of Surfleet. The site is located on the northern side of Woods Lane in Surfleet. The immediate area is largely characterised by agricultural land, although to the west is the residential area of the settlement.

History

H17-0260-95 - Outline - Erection of bungalow in connection with agriculture - Refused 06.06.1995

H17-0816-95 - Outline - Erection of agricultural bungalow - Withdrawn

H17-0009-96 - Outline - New seed store, farm office and farm dwelling - Approved 20.08.1996

H17-0667-96 - Full - New bungalow, office, seed store and glasshouse - Approved 01.10.1996

H17-0432-97 - New bungalow, office, seed store and glasshouse. - Approved 18.06.1997

H17-0029-98 - Condition Compliance - Details of landscaping (Condition 3 of application H17/0432/97) - Approved 10.05.1999

H17-0341-98 - Full - Change of use to seed store and snooker room. (Retrospective) - Refused 24.06.1998

Consultation Responses

The responses received from consultees during the initial consultation exercises, which can be viewed in their entirety through the South Holland website, can be summarised as follows:

Surfleet Parish Council

Support - No Comment

Public Representation

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, no letters of representation have been received.

Planning Considerations

Evaluation - Section 73

The proposal relates to the removal of condition 2 (agricultural occupancy condition), utilising section 73 of the Act. The purpose of an application made under section 73 of the Town and Country Planning Act 1990 is to vary or remove conditions associated with an existing planning permission. These applications are used to allow for amendments to an approved scheme and can be made both retrospectively and prior to a permission being implemented, as long as the permission is extant.

The Act is clear that: "On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted." As such, the Local Planning Authority are not able to revisit the principle of development and only matters relevant to the specific conditions can be considered.

The effect of granting permission would be to issue a new permission with the relevant condition removed, together with any other relevant conditions from the original permission, or subsequent relevant revisions since this permission.

The PPG clarifies that "Permission granted under Section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. It is open to the applicant to decide whether to implement the new permission or the one originally granted". There is no statutory definition of a 'minor material amendment'; but this is likely to include any amendments where its scale and or nature results "in a development which is not substantially different from the one which has been approved".

In this instance, the subsequent amendments, submitted under this Section 73 application, have not varied the description of development.

Principle of Development and Sustainability

Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

The adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019 (SELLP), is the development plan for the district, and is the basis for decision making in South Holland. The relevant development plan policies are detailed within the report above.

The policies and provisions set out in the National Planning Policy Framework, 2026 (NPPF) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

The property is within the Surfleet Settlement limit as defined within the South East Lincolnshire Local Plan (SELLP), 2019. Policy 1 (Spatial Strategy) of the South East Lincolnshire Local Plan is therefore applicable. It states that in Minor Service Centres such as Surfleet development will be permitted that supports their role as a service centre for the settlement itself, helps sustain existing facilities or helps to meet the service needs of other local communities. The policy then goes on to say that development will normally be limited to Allocated and Committed sites and infill.

There has been a change of circumstance since planning permission was granted for an agricultural dwelling in 1997 in the sense that the site is no longer in open countryside, but rather inside the Surfleet Settlement Limit. Any application for residential development in the present day would comply with Policy 1 of the SELLP on grounds of infill within Surfleet settlement boundary. Consequently, an agricultural restriction can no longer be justified since its essential purpose is to restrict development in the countryside to that related to agriculture.

Additional Considerations

Public Sector Equality Duty

In making this decision the Authority must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions) to:
A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).
C. Foster good relations between people who share a protected characteristic and those who do not

including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149. It is only one factor that needs to be considered, and may be balanced against other relevant factors.

It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.

Human Rights

In making a decision, the Authority should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as South Holland District Council to act in a manner that is incompatible with the European Convention on Human Rights. The Authority is referred specifically to Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property).

It is not considered that the recommendation in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general public interest and the recommendation is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Conclusion

As detailed above, Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

There has been a change of circumstance since the original planning permission (ref. H17-0432-97) because the property is now within the Surfleet Settlement limit as defined within the South East Lincolnshire Local Plan, 2019. Consequently, an agricultural restriction can no longer be justified. No objections are therefore raised to removal of condition 2 of planning permission ref. H17-0432-97.

Recommendation

Based on the assessment detailed above, it is recommended that the proposal should be approved under Delegated Authority.